

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
Civil Case No. 2:13cv00020-MR
[Criminal Case No. 2:94cr00032-MR-1]**

CLAYTON PERRY CROWE,)
)
 Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
 Respondent.)

)

ORDER

THIS MATTER is before the Court on Petitioner’s motion to reconsider the Court’s Order dismissing his Section 2255 petition to vacate as an unauthorized, successive petition [Doc. 4].

As the Court noted in the Order of dismissal, Petitioner has not demonstrated that he has obtained the necessary permission from the United States Court of Appeals for the Fourth Circuit to file a successive petition. [Doc. 2 at 2-3]. See 28 U.S.C. § 2255(h) (“A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals.”); see also Burton v. Stewart, 549 U.S. 147, 153, 127 S.Ct. 793, 166 L.Ed.2d (2007) (holding that failure of petitioner to obtain authorization to file a “second or successive” petition deprived the

district court of jurisdiction to consider the second or successive petition “in the first place”). For the reasons stated in the Court’s Order of dismissal, and those reasons stated herein, the Court denies Petitioner’s motion for reconsideration.

Pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, the Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Miller–El v. Cockrell, 537 U.S. 322, 338, 123 S.Ct. 1029, 154 L.Ed.2d 931 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000) (when relief is denied on procedural grounds, a petitioner must establish both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right). Petitioner has failed to make the required showing.

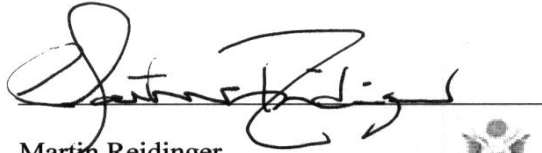
IT IS, THEREFORE, ORDERED that Petitioner’s motion to reconsider [Doc. 4] is **DENIED**.

IT IS FURTHER ORDERED that this Court declines to issue a certificate of appealability.

IT IS FURTHER ORDERED that the Clerk of Court shall notify the Fourth Circuit that Petitioner's motion reconsider has been denied. [See Doc. 7].

IT IS SO ORDERED.

Signed: July 5, 2013


Martin Reidinger
United States District Judge

